

Sink or Swim: Deep Dive into IMEs

Chairperson: Tom Winters, MD, FACOEM, FACPM

Monday, March 24th, 2025

2:05-3:00pm

WHAT IS AN IME?

Michael Ready, Esquire

Ready, Kiernan & McNally, LLP

mready@rkm-law.com

Disclosures

No Financial Disclosures

Independent Medical Exam or Section 45 Examination

Vital for defending cases

Examination by a physician of the insurer's choosing

Mandatory attendance by the employee

Failure to attend may result in suspension of benefits

May be requested "from time to time"

No 6-month rule

Occasionally more than one exam will be needed if case involves multiple specialties

Claim Representative Should:

Provide the doctor with all medical records relating to treatment for the industrial accident

Provide the doctor with any medical records relating to prior injuries or diseases to body parts injured in the industrial accident

Request the physician to take a history from the employee, conduct a physical examination, provide a diagnosis and opinion on extent of incapacity, identify specific restrictions, provide an opinion on whether treatment has been reasonable, necessary and causally related to the industrial accident and provide a prognosis for future treatment and recovery

In Cases Involving Pre-Existing Injuries:

Ask the physician to identify the pre-existing injury or disease

Indicate whether the pre-existing injury or disease is work-related

State whether the pre-existing injury or disease combined with the work injury to cause an incapacity and need for treatment

State whether the work injury remains a major but not necessarily predominant contributing cause of any incapacity and need for treatment or is no more than a minor or marginal cause

IME Reports Cannot Be Withheld

IME reports must be produced to opposing counsel if requested

The employee is entitled to receive a copy of the IME report even if the insurer does not intend to submit it to the DIA

Higgins v. Town of Maynard School Department, 23 Mass. Workers' Comp. Rep. 379 (2009)

2025
WORK RELATED
Injuries Workshop

Thank you!

Is an IME Good or Bad?

Deborah G. Kohl

Law Offices of Deborah G. Kohl

Dkohl@dgklaw.com

Disclosures

None.

IME-the good
the bad and
the ugly



Why an IME can be good

- Gain information about the Employee's medical condition
- Overview and perspective on the medical issues
- Medical opinion on causality and disability
- Medical backup for claims decision making
- Can assist an employee's claim

Why an IME can be Bad

- ❖ Can fail to address either some or all of the relevant issues
- ❖ Can render a medical opinion that is opposite of the one anticipated and create liability or require medical treatment
- ❖ Can render a medical opinion that is contrary to the employee's claim and require the employee to litigate the issues
- ❖ Can create conflicts in medical opinions with other IME doctors or treaters thereby requiring litigation or further medical opinions

Why an IME can be Ugly

- ❖ The opinion doesn't match what was sought and now you are stuck with it forever!!!
- ❖ Addendums don't work—they look like you took a gamble and lost and are now hedging your bets by whining about it
- ❖ You get an opinion that is so far fetched that you can't figure out what to do with it

SHOULD YOU IME OR NOT?

- ❖ Medical documentation of causality or disability
 - ❖ Information about the employee's medical condition
 - ❖ Understand the pros and cons
 - ❖ Carefully choose the medical provider for the IME
 - ❖ Check the physician's expertise and background
 - ❖ Are they experts in the appropriate specialty for this claim
 - ❖ Know what you are getting into and make an informed decision
- 

2025
WORK RELATED
Injuries Workshop

Thank you!

Principles of Workers Comp

Expert Evaluations

Tom Winters, MD

Occupational Environmental Health Network

None

Disclosures



Expert Evaluations

Important assessments performed by specialists to provide objective opinions on occupational injuries.

Typically pursued when a patient is not improving according to the expected trajectory. Also considered when the degree of symptoms does not appear consistent with the initial diagnosis.

Includes second opinion, medical record review, impartial exams, and independent medical exams.

Second Opinion

Serves to provide the employee with an alternative medical perspective.

Helps validate or question the original diagnosis or treatment plan.

Offers reassurance or suggests additional treatment options.

Sometimes requested by employees or their primary treating physician



Second Opinion

Advantages:

Enhanced diagnostic accuracy: Offers an additional professional evaluation, which can corroborate or refine the initial diagnosis, potentially leading to more precise treatment plans.

Broadens clinical insight: A second opinion can uncover overlooked aspects of the patient's condition, presenting alternative therapeutic approaches that may not have been considered.

Ethical obligation: unlike an IME, provider may assume the role of a treating physician

Disadvantages:

Potential for conflicting opinions: Discrepancies between the original diagnosis and the second opinion can create confusion and indecision for both the patient and the treating team.



Medial Record Review

Analyzes existing medical records without a direct examination.

Provides insight into the accuracy and consistency of medical documentation.

Helps employers and insurers assess the legitimacy of claims.

May influence decisions on claim approval, denial, or further investigation.

Much preferred for causation /work relatedness determination

Pursue and occ health clinician with knowledge of epi approach to causation



Medical Record Review

Advantages:

Efficient: Provides a thorough evaluation based on existing documentation, avoiding the need for repeated physical examinations.

Holistic historical analysis: Enables a comprehensive review of the patient's longitudinal medical history, including past treatments, procedures, and diagnoses, offering a detailed understanding of the case.

Disadvantages:

Absence of physical examination: Lacks the ability to capture real-time clinical signs or direct observation of patients that could be critical to diagnosis and treatment planning.

Reliance on documentation quality: The effectiveness of the review is contingent upon the accuracy, completeness, and clarity of the medical records available.

No direct patient interaction: Limits the ability to obtain new clinical information or clarify ambiguities through direct patient communication, which could be critical in complex cases.



Independent Medical Exam

Provides an objective, third-party medical evaluation that can be obtained every 6 months.

Focus Areas:

- Causality: Determines whether the injury or illness is work-related.
- Maximal Medical Improvement (MMI): Assesses whether the employee has reached the best possible recovery.
- Clinical Appropriateness of Treatment: Evaluates whether the current treatment is necessary and effective.

Used by employers and insurers to make decisions regarding benefits, return-to-work status, or further treatment.

Sometimes used by plaintiff counsel to support position



Independent Medical Exam

Advantages:

Helps determine legitimacy and extent of WC injury

Assist to confirm whether injury is work related or are there significant contributing pre-existing conditions, non-work related activities, or more likely alternative explanation of condition

Helps determine fitness to RTW and if at MMI

May help prevent prolonged or unnecessary medical treatment

May shorten dispute claim time

Disadvantages:

May perceive bias against worker's comp claim

Delays in scheduling, brief or poor report

Costs

May prolong dispute and costs if IME contradicts treater's opinion

May validate worker's claims



Impartial Exam

Medical examination at the request of the DIA conducted by a neutral physician who is not affiliated with either the employee or the employer/insurer

Dispute Between Medical Opinions: Requested when there is a conflict between the medical opinions of the employee's clinician and insurer's IME regarding the cause, extent, or medical treatment of a work-related injury or illness.

Judge's Discretion: The request is often ordered by a judge during a workers' compensation hearing.



Impartial Exam

Advantages

Assists in Dispute Resolution: Helps resolve conflicts between differing medical opinions, aiding in fair decision-making.

Judicial Confidence: Judges often rely heavily on the impartial physician's report, giving it significant weight in the final ruling.

Disadvantages

Varying Quality of Examinations: The quality of the impartial exam may vary depending on the physician's experience and familiarity with the specific injury or condition.

Limited Patient Interaction: The impartial physician typically conducts a single evaluation, which may not capture the full scope of the patient's condition.



2025
WORK RELATED
Injuries Workshop

Thank you!

Case Discussion

Tom Winters, MD

Occupational Environmental Health Network

Patient Details

- 28 year-old woman
- Rose up from her desk, working as an administrative assistant in the hospital
- Hit her head on a shelf
- She felt dazed
- No loss of consciousness
- No comorbidities



Evaluation Details

- Evaluated in occupational health
- Complained of *neck pain*, *memory problems*, *light sensitivity*, *balance problems*, and *blurry vision*
- Never had concussions prior
- **Physical examination:** Revealed a normal vision exam for near and far vision, and a completely normal neurologic examination



Evaluation Details

- Evaluated in occupational health
- Complained of *neck pain*, *memory problems*, *light sensitivity*, *balance problems*, and *blurry vision*
- Never had concussions prior
- **Physical examination:** Revealed a normal vision exam for near and far vision, and a completely normal neurologic examination



Evaluation Details

- Kept out of work for the next two weeks
- Saw her primary care physician
 - Offered no specific treatment plan
 - “You’ll improve over the next month or two.”
- Then referred to a neurologist due to the persistent symptoms
 - “You’ll need to be out of work for three months.”
- Referred for **cognitive behavioral therapy, vestibular therapy, and physical therapy.**

What Next?

What is the next approach to enhance **improved symptoms** and provide **work capability**?





Questions?